

**BEFORE THE MINNESOTA
BOARD OF VETERINARY MEDICINE**



In the Matter of
Ann M. Fischer, D.V.M.
License No. 07191

STIPULATION AND ORDER

STIPULATION

Ann M. Fischer, D.V.M. ("Licensee"), and the Minnesota Board of Veterinary Medicine Complaint Review Committee ("Committee") agree that the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Veterinary Medicine ("Board") is authorized pursuant to Minnesota Statutes chapter 156 to license and regulate veterinarians and to take disciplinary action as appropriate.

2. Licensee holds a license from the Board to practice veterinary medicine in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

COMPLAINT REVIEW COMMITTEE

The Committee that negotiated this Stipulation with Licensee is composed of Joanne Schulman, D.V.M. Gregory J. Schaefer, Assistant Attorney General, represented the Committee at the conference on May 23, 2013. Julia Wilson, D.V.M., Executive Director of the Board, was also present. Licensee was advised that she may choose to be represented by legal counsel in

this matter. Although aware of the opportunity, Licensee elected not to be represented by legal counsel.

III.

FACTS

For purposes of this Board of Veterinary Medicine proceeding only and without prejudice to Licensee in a proceeding in any other forum, the Board may consider the following as true:

1. Licensee was licensed to practice veterinary medicine in the State of Minnesota on June 13, 1992.
2. Licensee conducts a mobile veterinary practice based in Lake Elmo, Minnesota.
3. On January 10, 2013, Licensee performed an extensive dental procedure on a seven-year-old male cat ("Charlie") in which part of the alveolar bone came out when extracting teeth.
4. A second oral surgery, which included a surgical flap procedure, was performed on Charlie by a different veterinarian. The surgery revealed complications from the January 10, 2013, surgery that Licensee performed, including several tooth root pieces that were not removed; significant oral trauma; significant infection; and areas of exposed bone.
5. As part of the Board's investigation, the Committee reviewed Licensee's medical records for Charlie and correspondence with Licensee. The Committee determined that Licensee:
 - a. Failed to personally examine x-rays taken of Charlie.
 - b. Failed to diagnose remaining tooth root pieces and areas of exposed bone.
 - c. Failed to record Charlie's temperature during surgery.

IV.

LAWS

Licensee acknowledges that an administrative law judge or other finder of fact could conclude that the facts and conduct described in section III above constitute violations of Minnesota Statutes section 156.081, subdivision 2(11) (departure from the minimum standards of acceptable and prevailing practice), and (12) (unprofessional conduct), and Minnesota Rules 9100.0700, subpart 1.A. (failure to meet the minimum standards of practice), and C. (incompetent practice), and 9100.0800, subparts 1 (general standard of practice), and 8 (humane care), and would be sufficient grounds for the remedy set forth below.

V.

REMEDY

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

Stayed Suspension

1. The Board hereby **SUSPENDS** Licensee's license to practice veterinary medicine. The suspension is **STAYED** so long as Licensee complies with the following requirements:

a. ***Continuing Education.*** Within 90 days of the date of this Stipulation and Order, Licensee shall submit to the Board evidence of successful completion of the following :

- 1) A RACE or a preapproved wet lab course on dental extractions;
- 2) A RACE or a preapproved four-hour course on dental radiographic interpretation and technique; and

3) Either a preapproved four-hour course on anesthesia or a preapproved two-hour course on anesthesia and submitting a three-page report summarizing the topic, including five references.

b. ***Monitoring of Dentistry Practice by Observing Veterinarian.*** Within 90 days of the date of this Stipulation and Order, Licensee shall demonstrate proficiency in extraction and surgical flaps to a board-certified veterinarian who has expertise in animal dentistry.

c. ***Continuing Education Audit.*** Within 90 days of the date of this Stipulation and Order, Licensee shall submit to the Committee the dates, number of hours, and titles of all continuing education courses taken by Licensee in the two-year period preceding her last license renewal.

Removal of Stayed Suspension

2. Licensee may petition for removal of the stayed suspension at any regularly scheduled Board meeting following the successful completion of the requirements listed in section V.1 above. Licensee's stayed suspension may be removed, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that Licensee is capable of conducting herself in a fit and competent manner in the practice of veterinary medicine. Before petitioning for removal of the stayed suspension, Licensee may be required to meet with the Committee to review her petition and any evidence in support of the petition. The Board may, at any regularly scheduled meeting following Licensee's petition for removal of the stayed suspension, remove the stayed suspension, remove the stayed suspension with limitations placed upon the scope of Licensee's practice and/or conditional upon further reports to the Board, or

continue the stayed suspension of Licensee's license based upon Licensee's failure to meet the burden of proof.

VI.

CONSEQUENCES OF A VIOLATION

Noncompliance With Requirements for Stayed Suspension

1. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph V.1 above, the Committee may remove the stayed suspension pursuant to the procedures outlined below:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph VI.2 below or until the complaint is dismissed and the order is rescinded by the Committee. The Order of Removal shall confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee's license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a hearing before removal of the stayed suspension.

b. The Committee shall schedule the hearing pursuant to paragraph VI.2 below to be held within 60 days of service of the Order of Removal.

Noncompliance With Stipulation and Order

2. If Licensee fails to comply with or violates this Stipulation and Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Order. Unless stated otherwise in this Stipulation and Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery,

cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation will not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is suspended or the suspension is stayed.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Licensee's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 156.126 based on a violation of this Stipulation and Order or based on conduct of Licensee not specifically referred to herein.

VII.

ADDITIONAL INFORMATION

1. Licensee knowingly and voluntarily waives a contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

2. Licensee knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota, and their agents, employees and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Order, which may otherwise be available to Licensee.

3. This Stipulation and Order, the files, records and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

4. Licensee shall be responsible for all costs incurred as a result of compliance with this Stipulation and Order.

5. Licensee has read, understands, and agrees to this Stipulation and Order and has voluntarily signed the Stipulation and Order. Licensee is aware that this Stipulation and Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Order will take effect and the Order as modified will be issued. If the changes are unacceptable to Licensee or if the Board rejects the Stipulation and Order, it will be of no effect except as specified in paragraph 6 below.

6. Licensee agrees that if the Board rejects this Stipulation and Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Order or of any records relating to it.

7. This Stipulation and Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any

act, conduct, or omission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

VIII.

DATA PRACTICES NOTICES

1. This Stipulation and Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5.

2. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.


ANN M. FISCHER, D.V.M.
Licensee

Dated: 8-7 —, 2013

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 11th day of September, 2013.

MINNESOTA BOARD
OF VETERINARY MEDICINE


JULIA H. WILSON, D.V.M.
Executive Director